

CONTINUATION OF CRIMINAL COMPLAINT

I, Timothy Simon, having been first duly sworn, do hereby depose and state:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and have been so employed since 2005. I am currently assigned to the Detroit Field Office, Grand Rapids Resident Agency. Since October 2009, I have been primarily responsible for investigations involving the production, importation, advertising, receipt, and distribution of child pornography, and am currently responsible for investigating such violations occurring in the Western District of Michigan. I have received hundreds of hours of training in child pornography investigations, and I have participated in numerous search warrants, interviews, and online reviews pertaining to such activity. I have also observed and reviewed thousands of examples of child pornography (as defined in 18 U.S.C. § 2256) in all forms of media including computer media.
2. I am an “investigative or law enforcement officer” of the United States within the meaning of 18 U.S.C. § 2510(7) and am empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in 18 U.S.C. § 2516.
3. The statements contained in this Continuation are based upon: my personal knowledge; interviews I have conducted; information provided by FBI Special Agents and Task Force Officers (TFOs); written reports about this and other investigations that I have received, directly or indirectly, from other law enforcement officers, analysts, or Children’s Protective Services (CPS) employees; and my training, experience, and background as a Special Agent with the FBI.
4. I have probable cause to believe that **JAMES RUSSELL** (hereinafter **RUSSELL**) violated the statutes listed in this Criminal Complaint. Due to the limited purpose of this

Continuation, I have not set forth all of the facts known to me or uncovered during the investigation, but only those facts necessary to establish probable cause for the offenses listed in the Complaint.

RELEVANT STATUTES

5. This investigation concerns alleged violations of: 18 U.S.C. § 2251(a) and (e)- Sexual Exploitation of a Child/Production of Child Pornography; 18 U.S.C. § 2252A(a)(2) and (b)(1) - receipt, transportation, and distribution, and conspiracy to receive, transport, and distribute, child pornography; and 18 U.S.C. § 2252A(a)(5)(B) and (b)(2) - possession and access, or attempted access, with intent to view child pornography.

FACTS SUPPORTING PROBABLE CAUSE

6. On or about March 1, 2019, the FBI Las Vegas Child Exploitation Task Force received a CyberTip from the National Center for Missing and Exploited Children (NCMEC) regarding an individual's upload of 69 images, some depicting child pornography (CP), to Flickr, an image and video hosting website based in Mountain View, California. Over 50 of these images depicted the same white male, approximately 9 to 12 years old, fully or mostly nude, most inside a residence or apartment. The metadata on these images showed they were taken on various dates between July 2, 2009 and May 27, 2012, and some of the images were tagged with the words "CUTE" and "My Boy." The remaining images depicted a white adult male posing with various young boys, all fully clothed and in camp-like settings. These images appeared to have been taken much earlier than 2009.

7. The uploader was identified by NCMEC as **JAMES RUSSELL**, Flickr username 153181744@N05, with email address bummer4you@gmail.com. The 69 images had been

uploaded on September 15, 2018 from Internet Protocol (IP) address 98.160.230.74. Some of the older images (depicting the adult male) were determined to have geolocation information that showed they were created on August 19, 2018 with an iPhone X at 551 Eiger Way, Henderson, Nevada 89014, the known address of **JAMES RUSSELL**.¹

8. An administrative subpoena was sent to Cox Communications for subscriber information on IP address 98.160.230.74. Subpoena results identified the subscriber from August 18, 2018 to November 15, 2018 as **JAMES RUSSELL**. Further investigation revealed that **RUSSELL**, born in January 1970, was a Clark County (Nevada) School District employee and a teacher at Sandy Miller Elementary School.

9. On March 5, 2019, **RUSSELL** was interviewed by FBI Las Vegas TFOs after being advised of his Miranda rights. **RUSSELL** admitted being the user of the referenced Flickr account and email account bummer4you@gmail.com. He said he had recently digitized some old photographs and uploaded them to his iCloud account, but claimed no knowledge of any nude images of children in his Flickr account. When presented with a sanitized copy of one of the images of the young white male (referenced in paragraph 6), **RUSSELL** identified the boy as LR (identity known to the FBI), now 18 years old. He further noted the photo location was 5891 Crosswinds Drive, Apartment 34, Norton Shores, MI 49444, where he resided with LR in 2009. **RUSSELL** had no explanation for who had taken nude photographs of LR, but when advised of the number of nude images uploaded to his Flickr account, replied “that many?”

¹ As discussed in paragraph 9, the geolocation information was embedded when a digital copy of the original photograph was created.

10. On March 11, 2019, **RUSSELL** was arrested by the Henderson (Nevada) Police Department for Possession of CP and Distribution of CP, related to the above conduct. He was subsequently released on bond, and has also been placed on Administrative Leave by the Clark County School District. I have been advised by the U.S. Attorney's Office that the Nevada state authorities intend to dismiss their charges and defer to federal prosecution.

11. On March 20, 2019, I personally reviewed the 69 images uploaded to Flickr, along with several other images uploaded to that account on September 15, 2018 from **RUSSELL's** IP address, as noted in a total of eight (8) separate NCMEC CyberTips. Approximately 75 images solely depict LR, who is prepubescent and appears to be approximately 8 to 12 years old and depicted fully or mostly nude in at least 60 images, although nearly half of these do not show his exposed genitals or buttocks. The images portray LR in a number of unnatural poses: opening Christmas gifts or playing with toys in the nude; playing basketball nude inside a residence; sitting/lying on a couch playing video games or watching TV nude; lying on a bed nude; wearing Halloween-type capes or masks while otherwise nude; and other photographs taken from behind, including ones showing LR urinating outdoors. In most of the images it appears that LR is posing for the camera, but there are several images where LR may not have known the photo was taken. One photo appears to show LR sleeping nude on a bed.

12. Based on my training and experience, and an evaluation of the content and context of the referenced images of LR, I believe that at least five (5) specific images constitute CP. Some of the factors taken into consideration include the full nudity of the child, unnatural poses (e.g., legs spread apart), the focal point and close-up nature of the images, and apparent sexual coyness. These images are further described below:

- a. Img.329-1- A close-up shot of LR lying nude on a brown couch, holding a camera as if he is taking a picture, with his legs spread apart clearly exposing his penis.
- b. Img.334-1- A close-up, side view shot of LR lying nude on a brown couch, holding a TV remote up to his mouth, with his legs spread open clearly exposing his penis.
- c. Img.337-1- A close-up shot of LR lying nude on a carpeted floor, looking at the camera with his legs spread wide open (and one leg raised to the camera), while holding a toy that conceals most of his penis but still clearly displays the genital and anal regions.
- d. Img.338-1- A close-up shot of LR lying nude on a carpeted floor, looking at the camera while playing with a toy, with his legs spread wide open (and one leg raised to the camera), clearly exposing his penis.
- e. Img.350-1- A photo of LR standing nude inside a living room area, looking at the camera while holding a small basketball in his right hand and lifting his left leg high off the floor, clearly exposing his penis.

*Note: All images referenced in paragraphs 11 and 12 are available for Court review, upon request.

13. The metadata associated with the CP images indicate that the images were taken with a Canon-brand and Olympus-brand digital cameras. In my knowledge and experience, neither manufacturer makes cameras in the state of Michigan. In addition, the images were found in a Flickr account. Flickr is an image and video hosting website based in Mountain View,

California. Uploading images to Flickr necessarily requires using the internet to transmit the images. The internet is a facility of interstate commerce.

14. On March 20, 2019, I participated in an interview of LR at the Norton Shores Police Department. LR disclosed that **RUSSELL** sexually abused him constantly from the ages of 8 to 12 years old. During this time frame, **RUSSELL** always seemed to have a camera with him and took thousands of inappropriate, nude photos of LR. **RUSSELL** would reward LR with toys for taking these photos. The photos were primarily taken at **RUSSELL's** apartment (5891 Crosswinds Drive), and they depicted LR doing normal child activities as well as poses with him lying down with arms and legs moved a certain way. LR recalled that **RUSSELL** would store all the inappropriate photos on a large external hard drive that he kept in a lock box in the closet. At the conclusion of the interview, I showed LR a series of sanitized images (including some of the images from paragraph 12), and he identified himself in the images and said the background was **RUSSELL's** apartment.

15. LR also knew that **RUSSELL** was previously a teacher and principal at various elementary schools. One time last year, LR observed a naked child (approximately 5-6 years old) run out of **RUSSELL's** bedroom. LR did not know the child's name, but identified the child as the child with whom **RUSSELL** had a mentoring-type relationship. **RUSSELL** had similar relationships with other students and young children. **RUSSELL** volunteered to work with children in many capacities, including as a long-term guardian, babysitter, elementary and middle school basketball coach, lifeguard, camp counselor, and youth ministries assistant at various churches.

16. I have also become aware of the following allegations of concern (at this time unverified by me) against **RUSSELL** regarding his contact with children:

- a. 2005- A Personal Protection Order was filed against **RUSSELL** in Muskegon County, Michigan prohibiting his contact with a 10 year old child, with whom he had taken a special interest (e.g., buying gifts, spending alone time).
- b. 2009- A CPS and Michigan State Police investigation was initiated regarding **RUSSELL's** sexual abuse of another young boy more than 10 years earlier when **RUSSELL** had temporary guardianship.
- c. 2018- A CPS complaint alleging that **RUSSELL** had an inappropriate relationship with a 6 year old student, showing “father-like affection” and allowing the male student to spend the night at his residence. This complaint resulted in **RUSSELL** being placed on Administrative Leave and eventually leaving this employment as a Kindergarten to 1st grade principal.

CONCLUSION

17. There is probable cause to believe that **JAMES RUSSELL** has committed numerous violations of federal law pertaining to the sexual exploitation of children, including, but not limited to, violations of 18 U.S.C. § 2251(a) and (e), Sexual Exploitation of a Child/Production of Child Pornography; 18 U.S.C. § 2252A(a)(2)(A) and (b)(1) (receipt, transportation, and distribution of, conspiracy to receive, transport, and distribute, and attempt to receive, transport, and distribute child pornography); and/or 18 U.S.C. § 2252A(a)(5)(B) and (b)(2) (possession of, knowing access, conspiracy to access, or attempted access with intent to view child pornography). Specifically, **RUSSELL** produced at least 5 CP images of LR between July 2,

2009 and May 27, 2012 (when LR was 8 to 11 years old), possessed and maintained these images for a period of years, and then transported the images from Michigan to Nevada in the summer 2018 where he uploaded them to his Flickr account using the Internet.